

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FERNANDO HERNANDEZ, <i>et al.</i> ,	:	<b><u>ORDER</u></b>
	:	
Plaintiffs,	:	
	:	15-CV-1338 (ALC) (JLC)
- against -	:	
	:	
THE FRESH DIET INC., <i>et al.</i> ,	:	
	:	
Defendants.	:	
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**JAMES L. COTT, United States Magistrate Judge.**

The status conference previously scheduled for **October 26, 2016 at 12 p.m.** (Dkt. No. 81) is adjourned *sine die*. Instead, at that time, the Court will hold a hearing on the assertion of the retaining lien by Kaufman Dolowich & Voluck, LLP (“KDV”) against its former clients.<sup>1</sup> The Court will also address whether defendants may receive additional time to obtain new counsel, which defendant Judah Schlass<sup>2</sup> specifically requested in an *ex parte* letter to the Court dated October 14, 2016. Both counsel and the individual defendants should be prepared to testify under oath at the hearing to address the issues raised in Mr. Schlass’s letter to the Court.

The individual defendants, namely, Mr. Schlass, Syed Hussain, and Zaimi Duchman, should all plan to attend the hearing, which will be held in Courtroom 21D, United States Courthouse, 500 Pearl Street, New York, New York. If Mr. Hussain and Mr. Duchman are unable to attend, or do not join in Mr. Schlass’s opposition to the retaining lien (or otherwise have a different position regarding the retaining lien and the retention of new counsel), they

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<sup>1</sup> This law firm previously represented all defendants in this case, except Innovative Food Holdings, Inc. (FL) (“Innovative”), which has had separate counsel.

<sup>2</sup> While the caption spells Mr. Schlass’s name with an “o,” he signed his letter to the Court “Judah Schlass,” so the Court will use that spelling in this Order.

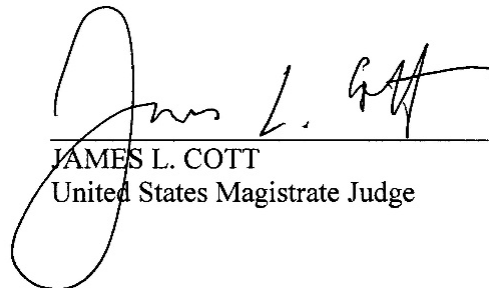
should so advise the Court by letter no later than **October 24, 2016**.<sup>3</sup> To the extent that the corporate defendants, excluding Innovative, retain new counsel, they may appear by counsel, as a corporation must, by law, be represented by counsel. *See, e.g., Hounddog Prods., LLC v. Empire Film Grp., Inc.*, 767 F. Supp. 2d 480, 486 (S.D.N.Y. 2011). Given the nature of the proceeding, involving attorney-client relationship issues, neither plaintiff nor Innovative should attend.

Finally, KDV is directed to respond to Mr. Schlass's *ex parte* submission no later than **October 24, 2016**, copying each of its former clients on the response. KDV is directed to immediately serve each of its former clients with a copy of this Order as well as this additional submission.

Once it resolves the retaining lien issue, and the defendants have obtained new counsel (or not) by a date certain, the Court will reschedule the status conference.

**SO ORDERED.**

Dated: New York, New York  
October 20, 2016



JAMES L. COTT  
United States Magistrate Judge

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<sup>3</sup> It is not clear from Mr. Schlass's letter whether the other individual defendants join in his opposition or not, as he does not say so explicitly (though he does refer to Mr. Duchman several times in the letter, thus suggesting their interests may be aligned in these circumstances).